

Exhibit “5”

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October 12, 2020

BY EMAIL: jferdinand@fiplawgroup.com

Jed Ferdinand, Esq.
Ferdinand IP
450 Seventh Avenue, Suite 1300
New York, NY 10123

Re: Polymer80, Inc. / Glock, Inc.

Dear Jed:

Our firm represents Glock, Inc. ("Glock") and Lipsey's, LLC ("Lipsey's") in connection with the issues raised in your letter of September 30, 2020. Your letter accuses Glock and Lipsey's of infringing your client Polymer80, Inc.'s ("Polymer80") registered trademark P80 and demands, among other things, that Glock and Lipsey's immediately discontinue their use of P80.

We have reviewed your letter and the underlying facts carefully. Having done so, we have concluded that Glock's and Lipsey's use of P80 is entirely appropriate and does not infringe or otherwise interfere with any rights of Polymer80. We are writing this letter to explain some of our reasons for reaching this conclusion. Our letter does not contain a full statement of Glock's and Lipsey's position and should not be construed as such.

I. Glock's and Lipsey's Use of "P80" is a Classic Fair Use Within the Meaning of the Lanham Act

Glock's and Lipsey's use of P80 fits squarely within the Lanham Act's fair use provision. This is because the term P80, as used by our clients, is "a term which is descriptive of and used fairly and in good faith only to describe," 15 U.S.C. § 1115(b)(4), the first pistol developed and commercialized by Glock's founder Mr. Gaston Glock.

As you may know, the GLOCK brand's story began in 1981 when Mr. Glock designed a new semi-automatic pistol for use by the Austrian military. The pistol he designed was revolutionary in its use of materials (its frame was made from polymer rather than metal or wood) and in its design (the pistol had a blocky, squared-off look that differed markedly from the way handguns had looked for nearly a century).

This first pistol model was adopted into service by the Austrian military in 1982 (it was also adopted into service by the Norwegian military) and was known as the "Pistole 80," or P80 for short. "P80" was engraved onto the slide of these early pistols. The photo below is of a

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GLOCK P80 pistol that is part of the permanent collection of the Smithsonian Institution's National Museum of American History:



When Glock introduced this first pistol into the United States market in 1986, it did so under the name GLOCK 17. Today, Glock sells more than 25 different models of pistol, marketed under the product trademarks G18, G19, G20, G21, etc. Like the initial P80 pistol, all subsequent models have polymer frames and the same distinctive blocky, squared-off shape.

The pistol that is the subject of your September 30 letter is a reproduction of the original GLOCK P80 pistol that Gaston Glock designed for use by the Austrian military some 38 years ago. This historical reproduction is being distributed exclusively by Lipsey's. The product comes packaged in a reproduction of the 1980's-era, peel-top style Glock box. The product so packaged is tucked inside a collectible overbox (one of whose panels contains information about the P80 pistol's history), which also contains a cable lock and a Certificate of Authenticity signed by Gaston Glock:



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Our clients' use of P80 in connection with this historical replica pistol is a classic example of a fair use permitted by the Lanham Trademark Act. In designing the pistol and its marketing program, the team sought to reproduce the original P80 pistol as closely as possible and to emphasize the historical connection between the "original" P80 of the early 1980's and Glock's/Lipseys' historical replica of 2020. As stated in Lipsey's website:

The GLOCK P80 revolutionized the gun industry and established the iconic GLOCK brand. Gaston Glock designed his first handgun for the Austrian military pistol trials in 1981. After winning this prized competition, the Austrian military named it the Pistole 80 and the first GLOCK pistols produced were subsequently marked P80. In 1986 this same pistol, commercially known as the G17, was introduced to the US market. You now have the opportunity to have your own piece of GLOCK history with the Lipsey's Exclusive GLOCK P80 Edition.

II. To the Extent Any Confusion Exists, Polymer80 (not Glock or Lipsey's) is Responsible for Engendering Such Confusion

Your letter refers to both "forward" and "reverse" trademark confusion. We understand the distinction and can report that our clients are not aware of any instance of actionable confusion as to source, sponsorship, or affiliation between Glock/Lipseys' (on the one hand) and Polymer80 (on the other hand) stemming from our clients' use of P80.

We also have reviewed various social media comments and postings relating to the GLOCK Pistole 80/P80 pistol and do not detect any trend or even any postings of concern.¹

For many reasons, we believe that Glock's/Lipseys' use of the P80 designation as described herein does not and will not create a likelihood of consumer confusion. In addition, we note respectfully that is somewhat audacious that Polymer80 should be complaining about "confusion" when it has devoted so much time and effort in the past to conjoin its name and trademark with the GLOCK brand. We highlight just a few examples below:

- For years, Polymer80's primary product line has been (and continues to be) a series of aftermarket polymer pistol frames intended for use with GLOCK pistol components. Polymer80's vendors and distributors commonly sell Polymer80 frames as "complete build kits" with genuine GLOCK components. These kits enable consumers to construct

¹ Your letter (at 2) refers a clause from an article that appeared in the August 31, 2020 issue of "The Firearm Blog" and claims that the language in question is "a veiled and unsuccessful attempt to establish a claim of priority rights . . . and to minimize the clear confusing similarity between the companies and brands." We disagree with your assertion about there being "confusing similarity between the companies and their brands." Our clients did not author the article in question, and, in any case, do not claim U.S. trademark rights in P80.

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infringement of Glock's trade dress rights.) In this way, Polymer80 has intentionally used its trademark P80 alongside Glock's registered trademarks to reinforce the connection between Polymer80's products and those of Glock.

In sum, to the extent that Polymer 80's brand identity has been fused with that of Glock (a proposition which our clients deny), this is your client's own making. This fundamental truth can be expressed in various legal doctrines – unclean hands and lack of any cognizable injury, among others.

* * *

We are happy to discuss these matters with you by phone if you like. Neither this letter, nor any ensuing discussions between us, shall constitute a waiver by Glock or Lipsey's of any rights, remedies, defenses, or legal positions – all of which are expressly reserved.

Very truly yours,

RENZULLI LAW FIRM, LLP



John F. Renzulli

cc: Glock, Inc.
Lipsey's, LLC
Joshua Paul, Esq. (Renzulli Law Firm)
Gavin S. Strube, Esq. (Renzulli Law Firm)